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F. Gill

REPORT OF THE

Attorney General's

National Committee

To Study the

ANTITRUST

LAWS

March 31, 1955

The Attorney General's
National Committee to Study
the Antitrust Laws

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STANLEY N. BARNES
S. CHESTERFIELD OPPENHEIM

Executive Secretary

ROBERT A. BICKS

Administrative Assistant

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ELIZABETH DAVIDSON

Letter of Transmittal

ATTORNEY GENERAL'S NATIONAL COMMITTEE
TO STUDY THE ANTITRUST LAWS
DEPARTMENT OF JUSTICE

WASHINGTON 25, D. C., *March 31, 1955.*

Attorney General HERBERT BROWNELL, Jr.,
Department of Justice, Washington, D. C.

DEAR MR. ATTORNEY GENERAL: We have the honor to transmit to you the final report of your National Committee to Study the Antitrust Laws. This Committee, appointed by you August 27, 1953, has worked some 19 months and with this submission now completes its task. The history and operation of the Committee are described immediately preceding the text of the report.

At this time, we express, on behalf of the members of the Committee and ourselves, appreciation for this opportunity to participate in a constructive public service undertaking. We hope that the report will produce benefits which measure up to your high expectations.

At all times the Committee has been impressed with the full freedom of thought and independence of decision accorded it throughout its studies. This status has enabled performance of its task completely untrammelled by direction from any public or private source.

Respectfully submitted,

STANLEY N. BARNES,
S. CHESTERFIELD OPPENHELM,
Co-chairmen.

COMMITTEE HISTORY AND OPERATION

On June 26, 1953, Attorney General Herbert Brownell, Jr., announced his intention to establish a National Committee to Study the Antitrust Laws.¹ Its goal, as he put it, was "a thoughtful and comprehensive study of our antitrust laws." At the same time, the President of the United States expressed the hope that this group would "provide an important instrument to prepare the way for modernizing and strengthening our laws to preserve American free enterprise against monopoly and unfair competition."

On July 9, 1953, the Attorney General appointed Stanley N. Barnes, Assistant Attorney General in charge of the Antitrust Division, and S. Chesterfield Oppenheim, Professor of Law, University of Michigan Law School, as Co-Chairmen. The Co-Chairmen immediately began the task of making recommendations to the Attorney General for the selection of Committee members. Over a period of a few months, including consultation by the Co-Chairmen with the Attorney General, the composition of the Committee took form. A tentative membership list was reviewed by the Attorney General with the President of the United States. Finally, in late August, the Co-Chairman announced the Committee's membership. The Co-Chairmen appointed Robert A. Bicks Executive Secretary of the Committee to aid them in the discharge of their duties.

Except for the Secretary of Commerce, the Assistant Attorney General in charge of the Antitrust Division, the Chairman of the Federal Trade Commission, and the Administrator of the Small Business Administration, Co-Chairman Oppenheim and all members served as private individuals.² Members include lawyers who counsel all sizes and types of business enterprise, law professors and economists—all specialists in the antitrust or cognate fields. No member was picked as a representative of any industry, section of our economy, or law firm. Instead, the Co-Chairmen's aim in selection was to gather men who reflect interacting views on issues of antitrust policy.

Once members were selected, the Co-Chairmen divided antitrust problems into major areas for study purposes. These eventually included Sections 1 and 2 of the Sherman Act Generally, Foreign Commerce, Distribution, Mergers, Patents, Exemptions, Economic Indicia of Competition and Monopoly, and Antitrust Administration and Enforcement.

¹ Address by the Attorney General of the United States on "Our Antitrust Policy," before the Fourth Circuit, Judicial Conference, June 26, 1953.

² By special arrangement with the University of Michigan Law School, Co-Chairman Oppenheim devoted the major part of his time to the Committee.

Work groups roughly corresponding to these areas were organized and Committee members assigned to each. Mergers and Economic Indicia of Competition and Monopoly were initially coalesced with the Sherman Act generally but were later given separate consideration.

In this work group process almost all Committee members participated. In addition, some work groups were aided by Conferees chosen by the Co-Chairmen for their special qualifications in a particular area. Antitrust Division as well as Federal Trade Commission legal and economic staff members specializing in particular antitrust areas worked as liaison with the Co-Chairmen on relevant Committee work groups. In such manner, the Co-Chairmen sought to insure that practical problems of antitrust administration and enforcement were at all times before the Committee.

Liaison was also established with other government agencies. Views were received from the Departments of State, Commerce, Defense, and Labor, as well as the Foreign Operations Administration. In addition, the Co-Chairmen invited views from outside parties and, as a result, some private groups submitted material which was circulated among the Committee. In this way, the Committee had the benefit of ideas not only from within its own ranks, but also from a range of government and private groups.

Each work group, headed by a Committee member or members appointed by the Co-Chairmen, proceeded to outline its plan for study. Parts of each agenda were assigned to work group members or Conferees for initial drafting. These drafts, in turn, formed the basis for intensive work group discussion. The subsequent drafting and revision process involved both consultation with government liaison and work group Conferees and numerous work group meetings in various parts of the country. Before and at these meetings, draft reports were circulated and analyzed. The product of the resulting rigorous debate, enduring from four to eight months, was the formulation of each area report.

The area reports were submitted to the Co-Chairmen and circulated to each member of the Committee by July, 1954. From these reports, and members' comments on circulated drafts, the Co-Chairmen formulated the first draft of the over-all Committee Report. This over-all draft was circulated to the full Committee in August, 1954, and discussed intensively by the full Committee at a three-day meeting in Ann Arbor, Michigan, late that month.

At that meeting, numerous Committee decisions regarding additions and revisions were made. These changes were effectuated by the Co-Chairmen and a revised over-all draft was circulated to the Committee

in December, 1954. This revised draft, in turn, was considered by the full Committee in a four-day meeting held in Washington later that month.

At that second full Committee meeting, changes were again directed by the Committee. These were made by the Co-Chairmen and a tentative final draft was circulated to the Committee for approval in February, 1955. Finally, after a number of changes were again incorporated, the draft was printed and transmitted to the Attorney General on March 31, 1955.

MEMBERS OF THE COMMITTEE

Walter Adams	Francis R. Kirkham
Morris A. Adelman	George P. Lamb
Cyrus V. Anderson	Jack I. Levy
Douglas Arant	*Mason A. Lewis
H. Thomas Austern	Benjamin H. Long
Cyrus Austin	Breck P. McAllister
Wendell B. Barnes	Parker McCollester (deceased)
Wendell Berge	Richard B. McDermott
Bruce Bromley	Gilbert H. Montague
Hammond E. Chaffetz	Sherman Peer
Herbert W. Clark	James A. Rahl
John Maurice Clark	David W. Robinson
Thomas F. Daly	Eugene V. Rostow
John W. Davis (deceased)	Charles B. Rugg
Walter J. Derenberg	Albert E. Sawyer
Raymond R. Dickey	Louis B. Schwartz
Charles Wesley Dunn	David T. Searls
George E. Frost	Bernard G. Segal
Fred E. Fuller	Herman F. Selvin
Robert W. Graham	Whitney North Seymour
*Clinton S. Golden	Morrison Shafroth
Charles O. Gregory	William Simon
Ewald T. Grether	Sumner H. Slichter
Clare E. Griffin	Blackwell Smith
George E. Hale	John Paul Stevens
Milton Handler	George J. Stigler
Edward F. Howrey	Jerrold G. Van Cise
Edward R. Johnston	Sinclair Weeks
Alfred E. Kahn	Curtis C. Williams, Jr.
A. Stewart Kerr	Laurence I. Wood
Kenneth Kimble	

CONFEREES OF THE COMMITTEE

Henry E. Foley	Nathaniel L. Nathanson
Carl W. Fulda	Frederick M. Rowe
John L. Hall	Harry Shulman (deceased)
Edgar A. Jones, Jr.	Charles E. Stewart
Stephen P. Ladas	Arthur L. Seder, Jr.
Karl Loos	Donald F. Turner
Burke Marshall	Dwight C. Vredenberg

* Clinton S. Golden and Mason A. Lewis did not participate in the deliberations of this Committee and accordingly feel they cannot pass upon this Report.

GOVERNMENT LIAISON WITH THE COMMITTEE

Department of Agriculture.....	Raymond Mischler
Department of Commerce.....	Stephen Dunn Patrick J. Federico John Kilcullen Nathan Ostroff Philip Ray
Department of Labor.....	Stuart Rothman
Department of Justice, Antitrust Division.....	Wilbur L. Fugate Marcus A. Hollabaugh Victor H. Kramer
Federal Trade Commission.....	Betty Bock Earl W. Kintner David C. Murchison

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